

FIFTY-THIRD DAY

(Friday, April 16, 1943)

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

| | |
|-----------|----------|
| Aikin | Martin |
| Beck | Mauritz |
| Brownlee | Metcalf |
| Bullock | Moffett |
| Chadick | Morris |
| Fain | Ramsey |
| Graves | Stone |
| Hazlewood | Sulak |
| Jones | Vick |
| Lane | Weinert |
| Lanning | Winfield |
| Lovelady | York |

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered prayer.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

Leaves of Absence Granted

Senator Cotten was granted leave of absence for today on account of illness, on motion of Senator Aikin.

Senator Moore was granted leave of absence for today on account of illness, on motion of Senator Morris.

Senator Shivers was granted leave of absence for today on account of important business, on motion of Senator Aikin.

Report of Standing Committee

Senator Weinert submitted the following report:

Austin, Texas,
April 16, 1943.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence to whom was referred H. B. No. 34, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

WEINERT, Chairman.

House Bill 299 on Final Passage

Senator Stone moved to reconsider the vote by which H. B. No. 299 was passed on yesterday.

The motion to reconsider prevailed.

The President laid the bill before the Senate on its final passage.

Senator Stone moved to reconsider the vote by the amendment offered by Senator Martin to the bill on yesterday was adopted.

The motion prevailed unanimously.

Senator Martin offered the following substitute for the amendment:

Amend H. B. No. 299 (substitute) by striking out of Subsection Fifteen (15), Section One (1), in lines forty and forty-one the following "or other place."

The substitute was adopted unanimously.

The amendment as substituted was adopted unanimously.

The bill was again passed by the following vote:

Yeas—24

| | |
|-----------|----------|
| Aikin | Martin |
| Beck | Mauritz |
| Brownlee | Metcalf |
| Bullock | Moffett |
| Chadick | Morris |
| Fain | Ramsey |
| Graves | Stone |
| Hazlewood | Sulak |
| Jones | Vick |
| Lane | Weinert |
| Lanning | Winfield |
| Lovelady | York |

Absent—Excused

| | |
|--------|---------|
| Cotten | Moore |
| Formby | Shivers |
| Kelley | Spears |
| Lemens | |

House Bills on First Reading

The following House bill, previously received from the House, was laid before the Senate, read first time, and referred to the committee indicated:

H. B. No. 439, to Committee on Game and Fish.

Reference of House Concurrent Resolution 105

The following resolution, previously received from the House, was laid before the Senate, read by the Sec-

retary and referred by the President to the committee indicated:

H. C. R. No. 105, to Committee on State Affairs.

Senate Bill 282 on Passage to Engrossment

The President laid before the Senate, as a special order for this hour, on its passage to engrossment (the bill having been read second time on April 1, 1943):

S. B. No. 282, A bill to be entitled "An Act adding a new Article to Chapter 10, under Title 83, entitled Labor, of the Revised Civil Statutes of the State of Texas of the year 1925 codification providing for maximum fees that may be charged for persons joining labor unions in Texas; providing for certain penalties for members of labor unions for striking or ceasing to work without being duly authorized by the duly constituted authorities of the union of which they are members; providing for certain penalties for any person or persons making false and fraudulent promises in order to induce persons who are not members of a union to become union members of labor organizations in Texas; and amending Article 5186 of the Revised Civil Statutes of the State of Texas under Title 83, Chapter 10, entitled Labor, to provide for the referring by the Governor, by proclamation, controversies between employers and employees of organized groups as well as any misconduct or irregularity with reference to the charging of exorbitant or duplicate initiation fees where the same is a matter of public concern; and declaring an emergency."

Senator Hazlewood offered the following amendment to the bill:

Amend Committee substitute for S. B. No. 282, by striking out all below the enacting clause and inserting in lieu thereof the following:

"Section I. It shall be unlawful for any representative, agent or employee of any organized labor union in Texas, or any other person whomsoever, to accept, receive or charge any dues or assessments, directly or indirectly, as initiation fees for admission to membership in any organized labor union in this State, any amount that is in excess of similar dues, assessments or charges made for the

years of 1939, 1940 and 1941. Any person who shall wilfully and knowingly violate the provisions of this Section shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$10.00 nor more than \$100.00, and in addition thereto, may be imprisoned in jail for not less than ten (10) days nor more than sixty (60) days, or shall be punished by both such fine and imprisonment, and each such charge in excess of the maximum herein provided shall constitute a separate offense.

"Sec. II. It shall be unlawful for any representative, agent or employee of any labor union in Texas, or for any other person whomsoever, to wilfully and knowingly induce any person to become a member of such organized labor union by any false representation as to the amount of work to be done, the permanency of the employment, or as to the nature of the work or working conditions, or to falsely represent any material fact or facts concerning the future employment of the person whose membership to such union is being sought. Any person violating the provisions of this Section of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars or may be confined in jail for not less than ten (10) days nor more than sixty (60) days or by both such fine and imprisonment.

"Sec. III. If any Section, Subsection, clause or phrase of this Act be in conflict with H. B. No. 100 passed at the Regular Session of the Forty-eighth Legislature of the State of Texas, then such Section, Subsection, clause or phrase of this Act shall be null and void and of no force or effect; if any Section, Subsection, clause or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and any Section, Subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more Sections, Subsections, sentences, clauses or phrases be declared unconstitutional.

"Sec. IV. The fact that in some instances agents and representatives of labor unions have been guilty of

charging excessive initiation fees; the further fact that some agents, employees and representatives or labor unions, as well as persons not members of labor unions, are making false and fraudulent representations as to working conditions and the permanency of employment for the purpose of inducing non union members to become members of labor unions and are thereby collecting exorbitant fees for union membership creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read in each House on three several days be suspended, and the constitutional rule requiring bills to go into effect ninety (90) days from and after their passage, be and the same are hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Senator Aikin offered the following amendment to the amendment:

Amend Hazlewood amendment by striking out the words and figures "\$10.00" wherever it appears and insert the words and figures "\$100.00" wherever it appears and by striking out the words and figures "\$100.00" and insert the words and figures "\$1,000.00."

The amendment to the amendment was adopted.

The amendment as amended was adopted.

On motion of Senator Hazlewood, and by unanimous consent, the caption of the bill was amended to conform to the body of the bill as amended.

The bill was passed to engrossment.

Senate Bill 282 on Third Reading

Senator Hazlewood moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 282 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—23

| | |
|----------|-----------|
| Aikin | Fain |
| Beck | Graves |
| Brownlee | Hazlewood |
| Bullock | Jones |
| Chadick | Lane |

| | |
|----------|----------|
| Lanning | Ramsey |
| Lovelady | Sulak |
| Martin | Vick |
| Mauritz | Weinert |
| Metcalfe | Winfield |
| Moffett | York |
| Morris | |

Nays—1

Stone

Absent—Excused

| | |
|--------|---------|
| Cotten | Moore |
| Formby | Shivers |
| Kelley | Spears |
| Lemens | |

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed.

Record of Vote

Senator Stone asked to be recorded as voting "nay" on the bill.

Conference Committee on Senate Bill 155

Senator Weinert called S. B. No. 155 from the President's table for consideration of the House amendments to the bill.

The President laid the bill and House amendments before the Senate, and the House amendments were read.

Senator Weinert moved that the Senate do not concur in the House amendments and that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

Message from the House

Hall of the House of Representatives,
Austin, Texas,
April 16, 1943.

Hon. John Lee Smith, President of the Senate.

Sir: I am directed by the House to inform the Senate that the House has passed the following resolution:

H. C. R. No. 102, Permitting the absence from the State of District Judges of the State of Texas.

Respectfully submitted,

CLARENCE JONES,
Chief Clerk, House of Representatives.

Senate Bill 117 on Passage to Engrossment

The President laid before the Senate, as a special order for this hour, on its passage to engrossment (the bill having been read second time on April 12, 1943):

S. B. No. 117, A bill to be entitled "An Act further regulating the traffic in alcoholic liquors in this State by amending the Texas Liquor Control Act in the following particulars: Amend Section 3, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 1, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, defining the term 'open saloon,' naming unlawful acts, and omitting special penalty; amend Section 4. (a)., Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 4, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, providing for permits for classified privileges; amending Section 13, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 14, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, declaring liquor permits and licenses special privileges and providing for issuance of such licenses and permits to successors in interest under certain conditions, providing conditions as to holding of permits; amend Section 15 (b) as provided in Section 18, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, providing time limitation for permits, the payment of fees, requiring permit for each outlet and for manner and method of refunding permit fees paid where application for permit is rejected; amend Section 15 (c) as provided in Section 19, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, amending Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, and as amended by Section 4, Chapter 13, Acts of the First Called Session of the Forty-fifth Legislature, providing for manner and method of issuance of permits and renewal thereof, providing for method

of changing location where permit is used; amend Section 30, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by Section 37, Chapter 448, Acts of the Regular Session of the Forty-fifth Legislature, providing custody and sale of alcoholic beverages and property forfeited to the State as nuisances, providing for transfer of title thereof, providing for destruction of alcoholic beverages unfit for consumption, allocating funds and making appropriation thereof under certain conditions; etc.; and declaring an emergency."

With the following amendment by Senator Cotten pending:

(Amendment)

Amend S. B. No. 117 by striking out the following in line 34, Section 13, Subsection d, page 5, of said bill as follows:

"or by any rule and regulation of the Board."

The amendment was adopted.

Senator Martin offered the following amendment to the bill:

Amend S. B. No. 117 by striking out in Section 42, Subsection a, page 9, the following words in line 17: "or without."

(Senator Vick in the Chair.)

Senator York moved the previous question on the amendment and the passage of the bill to engrossment, and the motion was not seconded.

After further debate of the amendment, Senator York moved the previous question on the amendment and the passage of the bill to engrossment, and the motion was duly seconded.

The Senate refused to order the main question at this time by the following vote:

Yeas—8

| | |
|----------|---------|
| Bullock | Moffett |
| Chadick | Moore |
| Lovelady | Morris |
| Metcalf | York |

Nays—16

| | |
|-----------|---------|
| Aikin | Jones |
| Brownlee | Lane |
| Fain | Lanning |
| Graves | Martin |
| Hazlewood | Mauritz |

| | |
|--------|----------|
| Ramsey | Vick |
| Stone | Weinert |
| Sulak | Winfield |

Absent

Beck

Absent—Excused

| | |
|--------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Kelley | Spears |

Senator Martin withdrew the amendment.

Senator Martin offered the following amendment to the bill:

Amend S. B. No. 117, page 9 by striking out in lines 15, 16, and 17, the following:

"and all equipment, fixtures and property kept and used in the maintenance of any alleged nuisance."

The amendment was adopted.

(President in the Chair.)

Senator Martin offered the following amendment to the bill:

Amend S. B. No. 117 by striking out in Section 42, Subsection a, page 9 the following words in line 17: "or without."

Senator Moffett moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—14

| | |
|---------|----------|
| Aikin | Lovelady |
| Beck | Mauritz |
| Bullock | Metcalfe |
| Chadick | Moffett |
| Jones | Morris |
| Lane | Ramsey |
| Lanning | York |

Nays—10

| | |
|----------|----------|
| Brownlee | Stone |
| Fain | Sulak |
| Graves | Vick |
| Martin | Weinert |
| Moore | Winfield |

Absent

Hazlewood

Absent—Excused

| | |
|--------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Kelley | Spears |

Senator Martin offered the following amendment to the bill:

Amend S. B. No. 117 by striking out all of Section 30, Subsection b, page 6 and inserting in lieu thereof the following:

"Twenty-five per cent (25%) of all moneys derived from the sale of any beverages or property shall be placed in a separate fund in the State Treasury, against which may be drawn all expenses incurred in the necessary storage and transportation, and any balance remaining in said fund on September 1 of each biennial shall be deposited in the general funds of the State of Texas. That where liquor, beer or wine, or either are confiscated or purchased, the officer in charge shall list each and every item so confiscated and the place and name of the owner or operator thereof and shall make three (3) copies, two (2) of which shall be duly verified by oath, one (1) copy of which shall be retained in the permanent files of the Liquor Control Board and one (1) verified copy filed with the Comptroller of the State of Texas, which shall constitute a permanent file and both of which shall be subject to inspection by any Member of the Legislature or any duly authorized law enforcement agency of the State of Texas. A false statement of said confiscated liquor, beer, wine, or other personal property shall be punishable as now provided for perjury and/or false swearing."

Senator Aikin offered the following amendment to the amendment:

Amend Martin amendment by striking out the words "General Revenue fund" and insert in lieu thereof "Old Age Assistance fund."

The amendment to the amendment was adopted.

The amendment as amended was adopted.

Senator Martin offered the following amendment to the bill:

Amend S. B. No. 117 by striking out all below the enacting clause and inserting in lieu thereof the following:

"Section 1. That Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by H. B. No. 8, Acts of the Third Called Session of the Forty-fourth Legislature, by H. B. Nos. 432 and 5, Acts of the Reg-

ular Session of the Forty-fifth Legislature, by S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, and by H. B. Nos. 8 and 373, Acts of the Regular Session of the Forty-seventh Legislature, be amended by the addition of new Sections 4 (c) and 4 (d), to read as follows:

"Sec. 4 (c) (1) It shall be unlawful for any person to consume any alcoholic beverage in any public place, or for any person to possess any alcoholic beverage in any public place for the purpose of consuming the same in such public place, at any time on Sunday between the hours of 1:15 a. m. and 1:00 o'clock p. m., and on all other days at any time between the hours of 12:15 a. m. and 7:00 o'clock a. m.

"(2) Any alcoholic beverage possessed in violation of this Section is declared to be illicit beverage and may be seized without warrant to be used as evidence of a violation of law, and any person in possession thereof or who otherwise violates any provisions of this Section may be arrested without warrant.

"(3) Any person who violates any provision of this Section shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding Fifty (\$50) Dollars.

"Sec. 4 (d) Proof that an alcoholic beverage is possessed in violation of preceding Section 4 (c) shall require evidence that the defendant has, on the date of the offense charged, consumed an alcoholic beverage in violation of said Section."

"Sec. 2. That Section 25, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 25. It shall be unlawful for any person to sell or deliver any liquor:

"(a) Between 10:00 o'clock p. m. of any day and 9:00 a. m. of the following day of any day except Sunday.

"(b) On any general primary or general election day between the

hours of 9:00 o'clock a. m. and 8:00 o'clock p. m.

"(c) On Sundays."

"Sec. 3. That Subsection (a) of Section 10, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, be further amended so as to hereafter read as follows:

"Sec. 10. (a) It shall be unlawful for any person to sell beer or offer same for sale:

"(1) On Sunday at any time between the hours of 1:00 o'clock a. m. and 1:00 o'clock p. m.

"(2) On any day except Sunday at any time prior to 7:00 o'clock a. m."

"Sec. 4. That Section 29, Article I, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, be amended so as to hereafter read as follows:

"Sec. 29. (a) Any room, building, boat, structure, or place of any kind where alcoholic beverages are sold, bartered, manufactured, stored, possessed or consumed in violation of this Act, or under conditions and circumstances contrary to the purposes of this Act, and all such beverages and all property kept and used in any such place, hereby are declared to be a common nuisance; and any person who maintains or assists in maintaining such common nuisance shall be guilty of a violation of this Act. The County Attorney or the District Attorney in the county wherein such nuisance exists or is kept or maintained, or the Attorney General, may maintain an action by injunction in the name of the State of Texas to abate and temporarily and permanently enjoin such nuisance. Such proceedings shall, except as otherwise herein provided, be guided by the rules of other injunction proceedings. The plaintiff shall not be required to give bond in such action and the final judgment shall constitute a judgment in rem against the property as well as a judgment against the defendant. Upon such final judgment the court shall order that said room, house, building, structure, boat, or place of any kind shall be closed for a period of one year, or closed for a part of said time and until the owner, lessee, tenant, or occupant thereof shall give bond with

sufficient surety to be approved by the court making the order in the penal sum of not less than One Thousand (\$1,000) Dollars, payable to the State and conditioned that alcoholic beverages will not thereafter be manufactured, bartered, possessed, stored, or sold, or otherwise disposed of therein, or kept thereon or therein, with the intent to sell or otherwise dispose of contrary to law, that the provisions of this Act will not be violated, that no person shall be permitted to resort thereon or therein for the purpose of drinking alcoholic beverages in violation of the provisions of this Act, and that the owner, lessee, tenant, or occupants thereof will pay all fines, costs, and damages assessed against him for any violation of this Act. If any condition of such bond is violated by either the owner, lessee, tenant, or occupant thereof, the whole amount may be recovered as a penalty for the use of the county wherein the premises are situated.

"(b) Upon any appeal from the judgment of the District Court such judgment shall not be superseded except upon the posting of an appeal-pending bond in the penal sum of not more than Five Hundred (\$500) Dollars, in addition to bond for costs of such appeal.

"(c) 'Appeal-pending bond' as used in this Section shall mean a bond to be approved by the District Court, required to be posted before the judgment of the trial court may be superseded on appeal, and conditioned that in the event the judgment of the trial court is finally affirmed it may be forfeited in the same manner for any of the causes for which a bond required upon final judgment may be forfeited as to any acts committed during the pendency of appeal.'

"Sec. 5. That Section 10½, Article II, Chapter 467, Acts of the Second Called Session of the Forty-fourth Legislature, as amended by H. B. No. 5, Acts of the Regular Session of the Forty-fifth Legislature, and by S. B. No. 20, Acts of the First Called Session of the Forty-fifth Legislature, be amended so as to hereafter read as follows:

"Sec. 10½. In any incorporated city or town where the sale of beer as defined in the Texas Liquor Control

Act is prohibited by charter or amendment thereto or by any ordinance from being sold in the residential section, such charter amendments or ordinances shall remain valid and continue effective until such time as such charter provisions, amendments or ordinances may be repealed or amended.

"All incorporated cities and towns are hereby authorized to regulate the sale of beer within the corporate limits of such cities and towns by charter amendment or ordinance and may thereby prescribe the opening and closing hours for such sales; such cities and towns may also designate certain zones in the residential section or sections of said cities and towns where such regulations for opening and closing hours for the sale of beer shall be observed or where such sales may be prohibited. All incorporated cities and towns are hereby authorized in adopting charter amendments or ordinances to distinguish between retailers selling beer for consumption on the premises where sold and those retailers, manufacturers, or distributors selling not for consumption on the premises where sold, and to provide for separate and distinct regulations. Nothing herein shall authorize any incorporated town or city to extend by ordinance or charter the hours of sale as fixed by State law.'

"Sec. 6. The amendment of any Section or any portion of a Section of the Texas Liquor Control Act by the enactment of this bill shall not affect nor impair any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any cause before such amendment shall take effect; but every such act done or right vested or accrued, or proceeding, suit, or prosecution had or commenced, shall remain in full force and effect to all intents as if such Sections or part thereof amended had remained in force. No offense committed and no liability, penalty, or forfeiture, either civil or criminal, incurred prior to the time when any Section or part thereof shall be repealed or amended by this Act, shall be discharged or affected by such repeal or amendment; but prosecutions and suits for such offenses, liabilities, penalties, or forfeitures shall be instituted and proceeded with in all respects as if prior Statute or part

thereof had not been repealed or amended.

"Sec. 7. If any part, Section, Sub-section, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of the Act; and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

"Sec. 8. The fact that the common welfare and peace of the people of this State are being daily jeopardized by the unrestricted hours in which alcoholic beverages are sold, and that there are inadequate remedies in existing law to prevent the sale of alcoholic beverages under conditions and circumstances contrary to the public interest, and that it is in the interest of the people to establish speedy restraints upon persons indulging excessively in alcoholic beverages creates an emergency and an imperative public necessity that the constitutional rule requiring all bills to be read on three several days in each House be suspended, and such rule is hereby suspended, and this Act shall take effect and be in force from and after its passage, and it is so enacted."

Senator Moffett moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—15

| | |
|----------|---------|
| Aikin | Mauritz |
| Beck | Moffett |
| Bullock | Moore |
| Chadick | Morris |
| Jones | Sulak |
| Lane | Vick |
| Lanning | York |
| Lovelady | |

Nays—8

| | |
|----------|----------|
| Brownlee | Ramsey |
| Fain | Stone |
| Graves | Weinert |
| Martin | Winfield |

Absent—Excused

| | |
|--------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Kelley | Spears |

Paired

Senator Metcalfe (present), who would vote "yea" with Senator Hazlewood (absent), who would vote "nay."

Senator Ramsey offered the following amendment to the bill:

Amend S. B. No. 117, page 16, Sub-division (18) line 38, after the word "liquor" by inserting the following: "in excess of one quart."

The amendment was adopted.

Senator Metcalfe offered the following amendment to the bill:

Amend S. B. No. 117 by striking out all of Section 16, and renumber succeeding Sections accordingly.

Senator Moore moved the previous question on the amendment and the passage of the bill to engrossment, and the motion was duly seconded.

The main question was ordered by the following vote:

Yeas—15

| | |
|----------|---------|
| Beck | Moffett |
| Bullock | Moore |
| Chadick | Morris |
| Jones | Ramsey |
| Lane | Stone |
| Lanning | Weinert |
| Lovelady | York |
| Metcalfe | |

Nays—9

| | |
|----------|----------|
| Aikin | Mauritz |
| Brownlee | Sulak |
| Fain | Vick |
| Graves | Winfield |
| Martin | |

Absent—Excused

| | |
|-----------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |
| Kelley | |

The amendment was adopted.

On motion of Senator Moffett, and by unanimous consent, the caption of the bill was amended to conform to the body of the bill as amended.

The bill then was passed to third reading.

Senate Bill 117 on Third Reading

Senator Moffett moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 117 be

placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—24

| | |
|----------|----------|
| Aikin | Mauritz |
| Beck | Metcalf |
| Brownlee | Moffett |
| Bullock | Moore |
| Chadick | Morris |
| Fain | Ramsey |
| Graves | Stone |
| Jones | Sulak |
| Lane | Vick |
| Lanning | Weinert |
| Lovelady | Winfield |
| Martin | York |

Absent—Excused

| | |
|-----------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |
| Kelley | |

The President then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—23

| | |
|----------|----------|
| Aikin | Mauritz |
| Beck | Metcalf |
| Brownlee | Moffett |
| Bullock | Moore |
| Chadick | Morris |
| Fain | Ramsey |
| Graves | Stone |
| Jones | Sulak |
| Lane | Vick |
| Lanning | Winfield |
| Lovelady | York |
| Martin | |

Nays—1

Weinert

Absent—Excused

| | |
|-----------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |
| Kelley | |

Senate Bill 349 on First Reading

By unanimous consent, the following local bill was introduced, read first time, and referred to the committee indicated:

By Senator Beck:

S. B. No. 349, A bill to be entitled "An Act to enlarge the jurisdiction

of the County Court of Morris County, Texas, in criminal cases to enable the County Judge of Morris County, Texas, to accept pleas of guilty in all cases of misdemeanor; providing for fees to County Judge in certain cases; providing fees for other officers of the Court shall be the same as now provided by laws of the State; and declaring an emergency."

To Committee on Criminal Jurisprudence.

Motion to Take up Senate Bill 311

Senator Stone moved that the regular order of business be suspended to take up for consideration at this time:

S. B. No. 311, A bill to be entitled "An Act authorizing the public school board to revise leases affecting all islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tidewater limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, upon such terms and considerations as the school land board may consider fair and advantageous to the State, authorizing the school land board to execute supplemental instruments accomplishing such revision after proposal or proposal for the same in a public document to the school land board, but which supplemental instruments shall reserve to the State a free royalty of at least one-eighth (1/8) of the oil or gas on such tracts; and declaring an emergency."

The motion was lost by the following vote (not receiving the necessary two-thirds vote):

Yeas—15

| | |
|----------|----------|
| Beck | Moffett |
| Brownlee | Ramsey |
| Fain | Stone |
| Graves | Sulak |
| Jones | Vick |
| Lanning | Weinert |
| Lovelady | Winfield |
| Martin | |

Nays—9

| | |
|---------|---------|
| Aikin | Metcalf |
| Bullock | Moore |
| Chadick | Morris |
| Lane | York |
| Mauritz | |

Absent—Excused

| | |
|-----------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |
| Kelley | |

Report of Standing Committee

By unanimous consent, the following report was submitted at this time:

Austin, Texas,
April 16, 1943.

Hon. John Lee Smith, President of the Senate.

Sir: We, your Committee on Criminal Jurisprudence to whom was referred S. B. No. 349, have had the same under consideration, and I am instructed to report same back to the Senate with the recommendation that it do pass and be not printed.

STONE, Chairman.

Motion to Adjourn

Senator Martin moved that the Senate adjourn until 10:00 o'clock a. m., Monday, April 19, 1943.

Yeas and nays were demanded, and the motion was lost by the following vote:

Yeas—4

| | |
|----------|----------|
| Brownlee | Martin |
| Fain | Winfield |

Nays—20

| | |
|----------|---------|
| Aikin | Metcalf |
| Beck | Moffett |
| Bullock | Moore |
| Chadick | Morris |
| Graves | Ramsey |
| Jones | Stone |
| Lane | Sulak |
| Lanning | Vick |
| Lovelady | Weinert |
| Mauritz | York |

Absent—Excused

| | |
|-----------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |
| Kelley | |

Committee Substitute Senate Bill 51 on Third Reading

The President laid before the Senate, on its third reading and final passage.

C.S.S.B. No. 51, A bill to be entitled "An Act regulating transportation by

aircraft, the operation, construction, repair and maintenance of aircraft, airports, landing strips, air navigation facilities, and instruction in the operation, construction, repair and maintenance of aircraft; defining terms and offenses, providing for licensing of aircraft and pilot thereof, prescribing powers and duties of Railroad Commission and authorizing the expenditure of monies by it for the acquisition and operation of airports and landing fields, and for the advancement and safety of air travel; authorizing acquisition and operation by municipalities, counties and other political subdivisions of airports and landing fields, as well as acquisition of air rights over private property and property rights for marking obstructions to safe operation of aircraft; authorizing airport zoning regulations; prescribing the liability for damage to persons or property caused by operation of aircraft; levying a tax on gasoline used in aircraft; creating a special fund in the Treasury, allocating funds to be deposited thereto, and prescribing the purposes for which such special fund may be used, and repealing all laws and parts of laws in conflict herewith; providing that if any Section, paragraph, sentence, clause, phrase or part of this Act be invalid, such invalidity shall not affect the remainder thereof; and declaring an emergency."

The bill was read third time.

Senator York moved the previous question on the passage of the bill, and the motion was duly seconded.

The Senate refused to order the main question at this time by the following vote:

Yeas—11

| | |
|----------|--------|
| Beck | Moore |
| Bullock | Morris |
| Lane | Ramsey |
| Lanning | Stone |
| Lovelady | York |
| Mauritz | |

Nays—11

| | |
|----------|----------|
| Aikin | Metcalf |
| Brownlee | Moffett |
| Chadick | Sulak |
| Graves | Vick |
| Jones | Winfield |
| Martin | |

Present—Not Voting

Fain

Absent—Excused

| | |
|-----------|--------|
| Cotten | Kelley |
| Formby | Lemens |
| Hazlewood | Spears |

Paired

Senator Weinert (present), who would vote "yea" with Senator Shivers (absent), who would vote "nay."

After further debate, Senator Moore moved the previous question on the passage of the bill, and the motion was duly seconded.

The main question was ordered by the following vote:

Yeas—17

| | |
|----------|---------|
| Beck | Moore |
| Bullock | Morris |
| Chadick | Ramsey |
| Graves | Stone |
| Lane | Sulak |
| Lanning | Vick |
| Lovelady | Weinert |
| Mauritz | York |
| Metcalf | |

Nays—7

| | |
|----------|----------|
| Aikin | Martin |
| Brownlee | Moffett |
| Fain | Winfield |
| Jones | |

Absent—Excused

| | |
|-----------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |
| Kelley | |

(President pro tempore Mauritz in the Chair.)

On motion of Senator Lovelady, and by unanimous consent, the caption of the bill was amended to conform to the body of the bill.

The bill was passed by the following vote:

Yeas—13

| | |
|----------|--------|
| Aikin | Morris |
| Beck | Ramsey |
| Chadick | Stone |
| Graves | Sulak |
| Lanning | Vick |
| Lovelady | York |
| Moore | |

Nays—9

| | |
|----------|---------|
| Brownlee | Jones |
| Bullock | Martin |
| Fain | Mauritz |

Metcalf
Moffett

Winfield

Absent—Excused

| | |
|--------|--------|
| Cotten | Lemens |
| Formby | Spears |
| Kelley | |

Paired

Senator Weinert (present), who would vote "yea" with Senator Shivers (absent), who would vote "nay."

Senator Lane (present), who would vote "yea" with Senator Hazlewood (absent), who would vote "nay."

Senate Bill 168 on Second Reading

Senator Metcalf moved that the regular order of business be suspended to take up for consideration at this time:

S. B. No. 168, A bill to be entitled "An Act amending Article 2870 of the Revised Civil Statutes of 1925, repealing all laws and parts of laws in conflict herewith [relating to the purchase and distribution of free text books]; and declaring an emergency."

The motion prevailed by the following vote:

Yeas—19

| | |
|----------|----------|
| Beck | Metcalf |
| Brownlee | Moffett |
| Bullock | Moore |
| Graves | Morris |
| Jones | Stone |
| Lane | Vick |
| Lanning | Weinert |
| Lovelady | Winfield |
| Martin | York |
| Mauritz | |

Nays—3

| | |
|---------|--------|
| Aikin | Ramsey |
| Chadick | |

Absent

Fain

Absent—Excused

| | |
|--------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Kelley | Spears |

Paired

Senator Sulak (present), who would vote "nay" with Senator Hazlewood (absent), who would vote "yea."

The President pro tempore laid the bill before the Senate on its second reading and passage to engrossment.

The bill was read second time.

Senator Morris moved the previous question on the passage of the bill to engrossment, and the motion was duly seconded.

The Senate refused to order the main question at this time by the following vote:

Yeas—11

| | |
|---------|---------|
| Beck | Moffett |
| Bullock | Moore |
| Jones | Morris |
| Lane | Stone |
| Mauritz | York |
| Metcalf | |

Nays—12

| | |
|----------|----------|
| Aikin | Martin |
| Brownlee | Ramsey |
| Chadick | Sulak |
| Graves | Vick |
| Lanning | Weinert |
| Lovelady | Winfield |

Absent

Fain

Absent—Excused

| | |
|-----------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |
| Kelley | |

Senator Aikin offered the following amendment to the bill:

Amend by inserting at proper place in bill:

"The number of employees in the text book division of the Board of Education shall never exceed the number fixed in the Departmental Appropriation bill and the salaries shall be as fixed in the Departmental Appropriation bill."

The amendment was adopted.

On motion of Senator Metcalfe, and by unanimous consent, the caption of the bill was amended to conform to the body of the bill as amended.

The bill was passed to engrossment.

Senate Bill 168 on Third Reading

Senator Metcalfe moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 168 be

placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—22

| | |
|----------|----------|
| Beck | Mauritz |
| Brownlee | Metcalf |
| Bullock | Moffett |
| Chadick | Moore |
| Fain | Morris |
| Graves | Stone |
| Jones | Sulak |
| Lane | Vick |
| Lanning | Weinert |
| Lovelady | Winfield |
| Martin | York |

Nays—2

| | |
|-------|--------|
| Aikin | Ramsey |
|-------|--------|

Absent—Excused

| | |
|-----------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |
| Kelley | |

The President pro tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—18

| | |
|----------|----------|
| Bullock | Metcalf |
| Fain | Moffett |
| Graves | Moore |
| Jones | Morris |
| Lane | Stone |
| Lanning | Vick |
| Lovelady | Weinert |
| Martin | Winfield |
| Mauritz | York |

Nays—2

| | |
|-------|--------|
| Aikin | Ramsey |
|-------|--------|

Present—Not Voting

Beck

Absent—Excused

| | |
|--------|---------|
| Cotten | Lemens |
| Formby | Shivers |
| Kelley | Spears |

Paired

Senator Beck (present), who would vote "yea" with Senator Chadick (absent), who would vote "nay."

Senator Sulak (present), who would vote "nay" with Senator Hazlewood (absent), who would vote "yea."

Senate Bill 280 on Second Reading

On motion of Senator Vick, and by unanimous consent, the regular order of business was suspended to take up for consideration at this time:

S. B. No. 280, A bill to be entitled "An Act to provide that insurance companies and associations operating under S. B. No. 135, Acts of the Regular Session of the Forty-sixth Legislature may pay from the mortuary funds any taxes assessed against them because of income to such funds; repealing all laws and parts of laws in conflict herewith; and declaring an emergency."

The President pro tempore laid the bill before the Senate on its second reading and passage to engrossment.

The bill was read second time and was passed to engrossment.

Senate Bill 280 on Third Reading

Senator Lovelady moved that the constitutional rule requiring bills to be read on three several days be suspended and that S. B. No. 280 be placed on its third reading and final passage.

The motion prevailed by the following vote:

Yeas—23

| | |
|----------|----------|
| Aikin | Metcalf |
| Beck | Moffett |
| Brownlee | Moore |
| Bullock | Morris |
| Fain | Ramsey |
| Graves | Stone |
| Jones | Sulak |
| Lane | Vick |
| Lanning | Weinert |
| Lovelady | Winfield |
| Martin | York |
| Mauritz | |

Absent—Excused

| | |
|-----------|---------|
| Chadick | Kelley |
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |

The President pro tempore then laid the bill before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote:

Yeas—22

| | |
|----------|---------|
| Aikin | Bullock |
| Beck | Fain |
| Brownlee | Graves |

| | |
|----------|----------|
| Jones | Morris |
| Lane | Ramsey |
| Lanning | Stone |
| Lovelady | Sulak |
| Martin | Vick |
| Mauritz | Weinert |
| Metcalf | Winfield |
| Moffett | York |

Nays—1

Moore

Absent—Excused

| | |
|-----------|---------|
| Chadick | Kelley |
| Cotten | Lemens |
| Formby | Shivers |
| Hazlewood | Spears |

Adjournment

On motion of Senator Martin, the Senate, at 1:35 o'clock p. m., adjourned until 10:00 o'clock a. m. Monday, April 19, 1943.

FIFTY-FOURTH DAY

(Monday, April 19, 1943)

The Senate met at 10 o'clock a. m., pursuant to adjournment, and was called to order by the President.

The roll was called, and the following Senators were present:

| | |
|-----------|----------|
| Aikin | Mauritz |
| Beck | Metcalf |
| Brownlee | Moffett |
| Bullock | Moore |
| Chadick | Morris |
| Cotten | Ramsey |
| Graves | Shivers |
| Hazlewood | Stone |
| Jones | Sulak |
| Lane | Vick |
| Lanning | Weinert |
| Lovelady | Winfield |
| Martin | York |

A quorum was announced present.

Rev. S. B. Culpepper, Chaplain, offered prayer.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of Friday, April 17, 1943, was dispensed with and the Journal was approved.

Leave of Absence Granted

Senator Fain was granted leave of absence for today on account of important business, on motion of Senator Sulak.